IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No.5599 of 2007

Rupee Cooperative Bank Ltd. ..Petitioner

vs.

Prakash Packaging Industries
and others ..Respondents

Mr.K.V.Tembe for petitioner.

CORAM: S.C.DHARMADHIKARI J.
19th NOVEMBER, 2007

P.C.

1. After hearing Mr.Tembe, I do not find any reason to interfere with the order passed by the learned Member, Cooperative Appellate Tribunal, Mumbai, Bench at Pune dated 21st April, 2007 in Appeal No.277 of 2006.

2. All grievances of the petitioner Bank are indeed redressed and the Bank has been directed to make an application formally so that its written statement can be taken on record. Apart from the observations that have been made by the lower Appellate Court, to my mind, the Trial Court should take the written statement on record. The reasons assigned have not been found to be at all satisfactory. In such

circumstances, the written statement which has been merely taken on file needs to be formally taken on record. I see no reason how such an order will not be passed by the learned Trial Court considering the observations of the lower Appellate Court. The law has also been sufficiently and elaborately set out now in Supreme Court decisions. Amply clarifying the power to take the written statement on record after expiry of the period of 90 days it is held that such provisions are directory. With these observations the Trial Court should give effect to the directionsof the lower Appellate Court if the petitioner Bank approaches it formally. Mr.Tembe states that formal application will be filed within a period of two weeks in pursuance of the above order. The Trial Court to deal with the same and pass appropriate orders thereon in accordance with law. There is no warrant for interference. Petition is dismissed. No costs.

(S.C.DHARMADHIKARI J.)